



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: April 13, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001227

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 14, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 18, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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### Decision

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[REDACTED] [REDACTED]  
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### Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that, as of December 18, 2014, you were eligible, and your spouse was conditionally eligible, for up to \$641.00 per month in advance premium tax credit and cost-sharing reductions?

Did the Marketplace properly determine that, as of December 18, 2014, you and your spouse were not eligible for Medicaid?

### Procedural History

On December 12, 2014, the Marketplace issued a notice confirming your family's enrollment as of December 3, 2014; you were enrolled in a Medicaid managed care plan with UnitedHealthcare, your spouse had not selected a plan, and your son had Child Health Plus coverage through UnitedHealthcare.

On December 16, 2014, the Marketplace issued a renewal notice. It stated that the Marketplace did not have enough information from state and federal data sources to determine eligibility for you, your spouse, and your son for 2015. It directed you to provide additional information by January 1, 2015.

On December 17, 2014, the Marketplace received your modified application and made a preliminary determination that, with a household income of \$30,000.00, you and your spouse were eligible for up to \$641.00 per month in advance premium tax credit and cost-sharing reductions. It also said that an eligibility

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determination could not be made for your son because the information you provided did not match what the Marketplace obtained from state and federal data sources.

On the same day, you spoke with the Marketplace's Account Review Unit and appealed the preliminary determination insofar as you were found eligible for an advance premium tax credit and cost-sharing reductions rather than Medicaid.

On December 18, 2014, the Marketplace issued an eligibility redetermination notice on your December 17, 2014 application. It said that you were newly eligible, and that your spouse was conditionally eligible, to share up to \$641.00 per month in advance premium tax credit and for cost-sharing reductions. The notice also directed your spouse to provide proof of citizenship prior to March 19, 2015 to confirm his eligibility.

On the same day, the Marketplace also issued a notice stating that information was needed on your 2-year-old son to confirm his income and make an eligibility determination.

On December 28, 2014, the Marketplace issued separate disenrollment notices for you and your spouse's Medicaid enrollment through UnitedHealthcare of New York, Inc. It stated that your enrollment would end effective December 31, 2014 and your Medicaid coverage would be discontinued as of December 31, 2014.

On January 14, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to give you an opportunity to submit supporting income and citizenship documentation. The Marketplace's Appeals Unit did not receive your supporting documentation within the 15 day period and the record was closed on January 29, 2015.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified, and the record reflects, that you are married and live with your spouse and your 2-year-old son.
- 2) The record reflects that you expect to file your 2015 tax return jointly with your spouse and you expect to claim your son as a dependent.
- 3) According to your December 17, 2014 application and your supporting testimony, you expect to have a household income of \$30,000.00 in 2015 before taxes are deducted. You further testified that your spouse's income varies from month to month.

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- 4) You testified that you expected your household income for January 2015 to be \$2,400.00.
- 5) You testified you do not expect to take any deductions for the 2015 tax year.
- 6) You testified, and the record reflects, that you reside in Kings County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's MAGI falls at or below 154% of the FPL (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your December 17, 2014 application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

### Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable FPL; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP; and (3) is not otherwise eligible for

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minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

For annual household income in the range of at least 150% but less than 200% of the 2015 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested" (45 CFR § 155.305(f)(1)(i)). On the date of your December 17, 2014 application, that was still the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

The issue raised on appeal is whether you and your spouse are eligible for Medicaid coverage or advance premium tax credit (APTC) and cost-sharing reductions (CSR) during 2015.

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In the application that was submitted on December 17, 2014, you attested to an expected yearly income of \$30,000.00, and the eligibility determination relied upon that information.

According to the record, there are three people in your household: you, your spouse, and your 2-year-old son.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138.0% of the federal poverty level (FPL) for the applicable family size. On the date of your application, the relevant FPL was the 2014 FPL of \$19,790.00 for a three-person household. Since \$30,000.00 is 151.60% of the 2014 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid using the information provided in your application.

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

APTC is available to households with income between 138% and 400% of the applicable FPL; at 151.59% you do meet the financial limit for that program.

You reside in Kings County, where the second lowest cost silver plan available for a couple through the Marketplace during 2015 costs \$743.50 per month.

At 151.59% of the FPL, the expected contribution to the cost of the health insurance premium is 4.09% of income, or \$102.25 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for a couple in your county (\$743.50 per month) minus your expected contribution (\$102.25 per month), which equals \$641.25 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your and your spouse's shared APTC to be \$641.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$30,000.00 is 151.59% of the 2014 FPL, the Marketplace correctly found you and your spouse to be eligible for cost-sharing reductions.

Since the December 18, 2014 eligibility determination correctly stated that you were eligible, and your spouse was conditionally eligible for up to \$641.00 per

month of APTC, eligible for cost-sharing reductions if you enrolled in a silver-level plan, and ineligible for Medicaid, it is correct and is AFFIRMED.

The December 18, 2014 notice for your son requested additional information rather than making an eligibility determination, but the Appeals Unit here raises the issue of your son's eligibility on its own authority.

According to the December 18, 2014 notice, no determination was made for your son because information was needed on his income. Since your son is 2 years old, and since there is no evidence in the record that he has an independent source of income, the Marketplace is directed to determine your son's eligibility for financial assistance using a household income of \$30,000.00, the same household income established for yourself and your spouse.

## **Decision**

The December 18, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for determination of your 2-year-old son's eligibility based on a three-person household with an expected income of \$30,000.00, if his eligibility has not yet been determined.

This decision does not change any eligibility determination made after December 18, 2014.

**Effective Date of this Decision:** April 13, 2015

## **How this Decision Affects Your Eligibility**

This decision does not change your or your spouse's eligibility. As of January 1, 2015, you and your spouse were eligible for up to \$641.00 of advance premium tax credit and, if you enrolled in a silver-level plan, for cost-sharing reductions.

Your case is returned to the Marketplace for determination of your 2-year-old son's eligibility based on a three-person household with an expected income of \$30,000.00, if his eligibility has not yet been determined.

This decision does not change any eligibility determination made after December 18, 2014.



## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
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- By fax: 1-855-900-5557

## **Summary**

The December 18, 2014 eligibility determination is **AFFIRMED**.

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This decision does not change your or your spouse's eligibility. As of January 1, 2015, you and your spouse were eligible for up to \$641.00 of advance premium tax credit and, if you enrolled in a silver-level plan, for cost-sharing reductions.

Your case is returned to the Marketplace for determination of your 2-year-old son's eligibility based on a three-person household with an expected income of \$30,000.00, if his eligibility has not yet been determined.

This decision does not change any eligibility determination made after December 18, 2014.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]